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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 CHARLES OLIVER COPKNEY, R.N.
14 44835 Santa Anita Avenue
Palm Desert, CA 92260

15 Registered Nurse License No. 588498

16 Respondent.

Case No.

2008-243

A C C U S A T I O N

17
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about October 5, 2001, the Board of Registered Nursing issued
24 Registered Nurse License Number 588498 to Charles Oliver Copkney, R.N. (Respondent). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on April 30, 2009, unless renewed.

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1 her ability to conduct with safety to the public the practice authorized by his or
2 her license.

3 (c) Be convicted of a criminal offense involving the prescription,
4 consumption, or self-administration of any of the substances described in
5 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
6 record pertaining to, the substances described in subdivision (a) of this section, in
7 which event the record of the conviction is conclusive evidence thereof.

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9 8. Section 490 of the Code states:

10 A board may suspend or revoke a license on the ground that the licensee
11 has been convicted of a crime, if the crime is substantially related to the
12 qualifications, functions, or duties of the business or profession for which the
13 license was issued. A conviction within the meaning of this section means a plea
14 or verdict of guilty or a conviction following a plea of nolo contendere. Any
15 action which a board is permitted to take following the establishment of a
16 conviction may be taken when the time for appeal has elapsed, or the judgment of
17 conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order
19 under the provisions of Section 1203.4 of the Penal Code.

20 9. Section 492 of the Code states:

21 Notwithstanding any other provision of law, successful completion of any
22 diversion program under the Penal Code, or successful completion of an alcohol
23 and drug problem assessment program under Article 5 (commencing with section
24 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
25 any agency established under Division 2 ([Healing Arts] commencing with
26 Section 500) of this code, or any initiative act referred to in that division, from
27 taking disciplinary action against a licensee or from denying a license for
28 professional misconduct, notwithstanding that evidence of that misconduct may
be recorded in a record pertaining to an arrest.

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11 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 11. California Code of Regulations, title 16, section 1444, states:

16 A conviction or act shall be considered to be substantially related to the
17 qualifications, functions or duties of a registered nurse if to a substantial degree it
18 evidences the present or potential unfitness of a registered nurse to practice in a
19 manner consistent with the public health, safety, or welfare. Such convictions or
20 acts shall include but not be limited to the following:

1 (a) Assaultive or abusive conduct including, but not limited to,
2 those violations listed in subdivision (d) of Penal Code Section 11160.

3 (b) Failure to comply with any mandatory reporting requirements.

4 (c) Theft, dishonesty, fraud, or deceit.

5 (d) Any conviction or act subject to an order of registration
6 pursuant to Section 290 of the Penal Code.

7 12. California Code of Regulations, Title 16, section 1445 states:

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9 (b) When considering the suspension or revocation of a license on the
10 ground that a licensed vocational nurse has been convicted of a crime, the Board,
11 in evaluating the rehabilitation of such person and his eligibility for a license will
12 consider the following criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

15 (3) The time that has elapsed since commission of the act(s) or
16 offense(s).

17 (4) Whether the licensee has complied with any terms
18 of parole, probation, restitution, or any other
19 sanctions lawfully imposed against the licensee.

20 (5) If applicable, evidence of expungement proceedings
21 pursuant to Section 1203.4 of the Penal Code.

22 (6) Evidence, if any, of rehabilitation submitted by the
23 licensee.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(May 8, 2006 Criminal Conviction for Driving With a Blood Alcohol Content
26 of .08 or More on March 25, 2006)**

27 13. Respondent has subjected his license to disciplinary action under sections
28 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is
substantially related to the qualifications, functions, and duties of a Registered Nurse. The
circumstances are as follows:

a. On or about May 8, 2006, in a criminal proceeding entitled *People
v. Charles O. Copkney*, in San Francisco County Superior Court, Case No. 2260245, Respondent

1 was convicted on his plea of no contest for violating Vehicle Code section 23152, subdivision
2 (b), driving a vehicle with a blood alcohol content (BAC) of .08 or greater, a misdemeanor.

3 b. As a result of the conviction, on or about May 8, 2006, Respondent
4 was sentenced to 22 days in the county jail, with credit for two days served, three years
5 unsupervised probation, completion of a First Offenders Program, and payment of \$1,505 in
6 fines and fees. Respondent was further ordered not to drive with a measurable amount of alcohol
7 in his system or without a valid license.

8 c. The circumstances that led to the conviction were that on or about
9 the evening of March 25, 2006, officers from the San Francisco Police Department were called
10 to investigate a reported hit-and-run accident in downtown San Francisco. The officers effected
11 a traffic stop on Respondent, who was the sole occupant of a Mercedes. The reporting party,
12 who had followed behind Respondent in his vehicle, told the officers that he had observed
13 Respondent hit three parked cars and drive off. The reporting party insisted that Respondent was
14 the only person in the Mercedes at the time of the accident. During an interview, the officers
15 detected an odor of alcohol on Respondent's breath and that his voice was thick and slow. The
16 officers administered a series of Field Sobriety Tests to Respondent, all of which he failed.
17 Respondent was arrested and taken to the police station where he submitted to a breath test and
18 interview. Respondent's BAC was measured at 0.18% and 0.16%. Respondent refused a blood
19 test. A records check revealed that Respondent did not have a valid drivers license.
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21 **SECOND CAUSE FOR DISCIPLINE**

22 **(July 31, 2007 Criminal Conviction for Driving With a Blood Alcohol Content** 23 **of .08 or More [With a Prior] on June 11, 2007)**

24 14. Respondent has subjected his license to disciplinary action under sections
25 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is
26 substantially related to the qualifications, functions, and duties of a Registered Nurse. The
27 circumstances are as follows:

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1 a. On or about July 31, 2007, in a criminal proceeding entitled *People*
2 *v. Charles Oliver Copkney*, in Riverside County Superior Court, Case No. INM178963,
3 Respondent was convicted on his plea of guilty for violating Vehicle Code section 23152,
4 subdivision (b), driving a vehicle with a blood alcohol content (BAC) of .08 or greater, a
5 misdemeanor. The conviction was enhanced by Respondent's admission to a prior conviction
6 for the same offense, as detailed in paragraph 13, above.

7 b. As a result of the conviction, on or about July 31, 2007,
8 Respondent was sentenced to 15 days in the county jail, with credit for two days served (to be
9 served on the RSO Weekender Program), 60 months summary probation, completion of a
10 Drinking Driver Program (SB 38), and payment of \$2,217.40 in fines and fees. Respondent was
11 further ordered not to drive with a measurable amount of alcohol in his system or without a valid
12 license, registration, and insurance. An interlock device installation was waived on the condition
13 that Respondent notify the court of any future access to or ownership of a vehicle.

14 c. The circumstances that led to the conviction were that on or about
15 the evening of June 11, 2007, Respondent was stopped by a Riverside County Sheriff's Deputy
16 for running a red light at an intersection in Palm Desert. Respondent, who was the sole occupant
17 of the vehicle, told the officer that he was lost. Respondent produced a driver's license from the
18 state of Washington. The deputy detected an odor of alcohol on Respondent's breath and noted
19 that Respondent's eyes were red and watery. Respondent spontaneously stated to the officer that
20 he hadn't been drinking. When the deputy told Respondent he could smell alcohol on his breath,
21 Respondent admitted to drinking a small glass of wine at a friend's house. The deputy
22 administered a series of Field Sobriety Tests (FST's) to Respondent, all of which he failed to
23 perform as instructed. Respondent agreed to a Preliminary Alcohol Screening (PAS) test. The
24 two BAC readings measured 0.174% and 0.176%. Based on Respondent's failure to perform the
25 FST's, and his objective symptoms of alcohol intoxication, Respondent was placed under arrest.
26 At the Palm Desert station, Respondent again submitted to a breath test which displayed a BAC
27 reading of 0.17%. A records check revealed that on or about May 12, 2006, Respondent's
28 California Driver's License was suspended by the DMV for Excessive Blood Alcohol Level.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)

15. Respondent has subjected his license to disciplinary action under section 2762, subdivision (b) of the Code in that Respondent used alcohol in a manner dangerous and injurious to himself and the public as evidenced by Respondent's two alcohol-related convictions in a 14-month period, as alleged in paragraphs 13-14, above. Respondent's ongoing disregard for himself and the public safety constitutes unprofessional conduct.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)

16. Respondent has subjected his license to disciplinary action under section 2762, subdivision (c) of the Code in that Respondent was convicted of two alcohol-related offenses in an 14-month period as alleged in paragraphs 13-14, above. Respondent's convictions and his inability to abide by the terms and conditions of his probation constitute unprofessional conduct.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 588498, issued to Charles Oliver Copkney, R.N.;
2. Ordering Charles Oliver Copkney to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/1/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant